



CRL MP(MD) Nos. 4392 and 4394 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02-04-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos. 4392 and 4394 of 2025
in CRL RC(MD) No. 431 of 2025

K.Selvakumar

Petitioner

Vs

M.Karuppasamy

Respondent

Prayer in CRL MP(MD) No. 4392 of 2025 : Criminal Miscellaneous Petition filed under Section 438(1) of BNSS., seeking orders to suspend the sentence imposed as against the petitioner by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District in C.C.No.325 of 2012, dated 12.03.2018 confirming the said order by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in C.A.No.43 of 2018, dated 04.09.2024 pending disposal of the revision.

Prayer in CRL RC(MD) No. 431 of 2025 : Criminal Revision Petition filed under Sections 438 r/w 442 BNSS, to call for the records and set aside the order of conviction and imposition as against the petitioner passed in C.C.No.325 of 2012 on the file of the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District, dated 12.03.2018, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in C.A.No.43 of 2018, dated 04.09.2024.

For Petitioner(s):

Mr.M.Jegadeesh Pandian

For Respondent(s):

Mr.M.Jothi Basu

ORDER

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District, in



C.C.No.325 of 2012, dated 12.03.2018, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, in C.A.No.43 of 2018, dated 04.09.2024.

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2.The case of the complainant is that the petitioner/accused borrowed a sum of Rs.2,05,000/- from the complainant on 16.05.2012 and agreed to repay the same within two months; that the petitioner has issued two cheques bearing No.053262, dated 26.07.2012 for Rs.25,000/- and No.053264, dated 25.07.2012 for Rs.80,000/- both drawn on HDFC Bank, Sivakasi Branch in favour of the complainant; that the accused had issued two cheques bearing No.700233, dated 18.03.2012 for Rs.50,000/- and No.700232, dated 16.06.2012 for Rs.50,000/- both drawn on Axis Bank, Sivakasi Branch in favour of the complainant; that the complainant has presented the cheques for collection on 28.07.2012, the Axis Bank cheques were returned with reason as "Funds Insufficient"; and the HDFC Bank cheques were returned with reason as 'account closed'; that the complainant has sent a legal notice, dated 02.08.2012 to the petitioner demanding repayment of the amount covered by the cheques and that the petitioner after receiving the notice on 07.08.2012, neither paid the cheque amount nor replied to the legal notice. Hence, the complainant has filed a private complaint for the offence under Section 138 of Negotiable Instruments Act.

3.The learned counsel appearing for the petitioner would submit that the



petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.2,05,000/-, within one month, in default, to undergo three months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.43 of 2018 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur. The learned Sessions Judge, Srivilliputhur, confirming the conviction and sentence, dismissed the appeal. Being dissatisfied with the dismissal of the appeal, the petitioner has preferred the present Criminal Revision along with the instant miscellaneous petition seeking suspension of sentence.

5. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already deposited a sum of Rs.91,400/- before the Court below and he is ready to deposit some portion of the remaining amount.

6. This Court has carefully considered the contentions put forward by the learned counsel appearing for the petitioner and also perused the materials available on record.



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7. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit 60% of the compensation amount on or before 28.04.2025 to the credit in C.C.No.325 of 2012 on the file of the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District, failing which the sentence suspended shall automatically dismissed and the concerned jurisdictional police is at liberty to execute the sentence imposed by the trial Court against the petitioner in the manner known to law;

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District;



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(iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iv) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court. Consequently, Crl.M.P(MD)No.4394 of 2025, is dismissed.

9. Post the matter on 29.04.2025 'for reporting compliance'.

sd/-
02/04/2025

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/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DAS
TO
1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVLLIPUTHUR.



CRL MP(MD) Nos. 4392 and 4394 of 2025

2 THE JUDICIAL MAGISTRATE NO.I,
SIVAKASI, VIRUDHUNAGAR DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-3841[I] dated 03/04/2025)

ORDER
IN

CRL MP(MD) Nos. 4392 and 4394 of 2025
in CRL RC(MD) No. 431 of 2025
Date :02/04/2025

SA/SAR. /05.04.2025/6P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.